

REDACTED

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)
)
GREGG CHARLES CHECANI, M.D.)
)
Physician's and Surgeon's)
Certificate #A-49952)
)
)
Respondent.)
_____)

File No: 16-1999-102311


DECISION AND ORDER

The attached Stipulation for Surrender of License is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 8, 2000 .

IT IS SO ORDERED August 1, 2000

MEDICAL BOARD OF CALIFORNIA



Ira Lubell, M.D.
Chair, Panel A
Division of Medical Quality

BILL LOCKYER, Attorney General
of the State of California
GAIL M. HEPPELL
Supervising Deputy Attorney General
1300 I Street, Suite 125
P. O. Box 944255
Sacramento, California 94244-2550
Telephone: (916) 324-5336

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	Case No. 16-1999-102311
Against:)	
)	
GREGG CHARLES CHECANI, M.D.)	
9 Clearview Drive)	STIPULATION FOR
Natick, MA 01760)	SURRENDER OF LICENSE
)	
Physician and Surgeon's)	
Certificate No. A 49952,)	
)	
Respondent.)	

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings, that the following matters are true:

1. Complainant, Ronald Joseph, is the Executive Director of the Medical Board of California, Department of Consumer Affairs ("Board") and is represented by Bill Lockyer, Attorney General of the State of California by Gail M. Heppell, Supervising Deputy Attorney General.

2. Gregg Charles Checani, M.D. (hereinafter

1 "respondent") is represented by W. Scott Liebert, Esq., 29 Crafts
2 Street, Suite 500, Newton, MA 02460 in this matter. Respondent
3 has counseled with his attorney concerning the effect of this
4 stipulation which respondent has carefully read and fully
5 understands.

6 3. Respondent has received and read the Accusation
7 which is presently on file and pending in Case Number 16-1999-
8 102311 before the Board, a copy of which is attached as Exhibit A
9 and incorporated herein by reference.

10 4. Respondent understands the nature of the charges
11 alleged in the Accusation and that, if proven at hearing, such
12 charges and allegations would constitute cause for imposing
13 discipline upon respondent's license issued by the Board.

14 5. Respondent is aware of each of his rights,
15 including the right to a hearing on the charges and allegations,
16 the right to confront and cross-examine witnesses who would
17 testify against respondent, the right to testify and present
18 evidence on his own behalf, as well as to the issuance of
19 subpoenas to compel the attendance of witnesses and the
20 production of documents, the right to contest the charges and
21 allegations, and other rights which are accorded respondent
22 pursuant to the California Administrative Procedure Act (Gov.
23 Code, § 11500 et seq.) and other applicable laws, including the
24 right to seek reconsideration, review by the superior court, and
25 appellate review.

26 6. In order to avoid the expense and uncertainty of a
27 hearing, respondent freely and voluntarily waives each and every

1 one of these rights set forth above and admits the truth of the
2 allegations contained in Accusation No. 16-1999-102311.
3 Respondent agrees that cause exists to discipline his physician
4 and surgeon's license pursuant to Business and Professions Code
5 sections 141 and 2305, and hereby surrenders his license for the
6 Board's formal acceptance.

7 7. Respondent understands that by signing this
8 stipulation he is enabling the Medical Board of California to
9 issue its order accepting the surrender of his license without
10 further process. He understands and agrees that Board staff and
11 counsel for complainant may communicate directly with the Board
12 regarding this stipulation, without notice to or participation by
13 respondent. In the event that this stipulation is rejected for
14 any reason by the Board, it will be of no force or effect for
15 either party. The Board will not be disqualified from further
16 action in this matter by virtue of its consideration of this
17 stipulation.

18 8. Upon acceptance of the stipulation by the Board,
19 respondent understands that he will no longer be permitted to
20 practice as a physician and surgeon in California, and also
21 agrees to surrender and cause to be delivered to the Board both
22 his license and wallet certificate before the effective date of
23 the decision.

24 9. Respondent fully understands and agrees that if he
25 ever files an application for relicensure or reinstatement in the
26 State of California, the Board shall treat it as a petition for
27 reinstatement, the respondent must comply with all the laws,

1 regulations and procedures for reinstatement of a revoked license
2 in effect at the time the petition is filed.

3 10. Respondent understands that he may not petition
4 for reinstatement as a physician and surgeon for a period of
5 three (3) years from the effective date of his surrender.
6 Information gathered in connection with Accusation number 16-
7 1999-102311 may be considered by the Division of Medical Quality
8 in determining whether or not to grant the petition for
9 reinstatement. For the purposes for the reinstatement hearing,
10 the allegations in Accusation number 16-1999-102311 shall be
11 deemed to be admitted by respondent, and respondent waives any
12 all defenses based on a claim of laches.

13 11. All recitals contained in this stipulation are
14 made solely for the purpose of settlement in this proceeding and
15 for any other proceedings in which the Medical Board of
16 California or other professional licensing agency is involved,
17 and shall not be admissible in any other criminal or civil
18 proceedings.

19 20 ACCEPTANCE

21 I, Gregg Charles Checani, M.D., have carefully read the
22 above stipulation and enter into it freely and voluntarily and
23 with full knowledge of its force and effect, do hereby surrender
24 my Physician and Surgeon's Certificate No. A 49952, to the
25 Division of Medical Quality, Medical Board of California for its
26 formal acceptance. By signing this stipulation to surrender my
27 license, I recognize that upon its formal acceptance by the

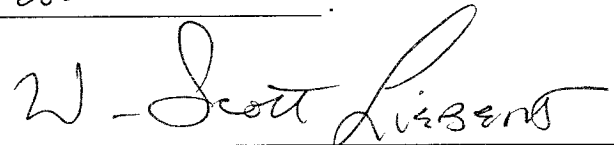
1 Board, I will lose all rights and privileges to practice as a
2 physician and surgeon in the State of California and I also will
3 cause to be delivered to the Board both my license and wallet
4 certificate before the effective date of the decision.

5 DATED: 6/1/2000.

6
7 
8 GREGG CHARLES CHECANI, M.D.
9 Respondent

10 I have fully discussed with respondent Greg Charles Checani,
11 the terms and conditions and other matters contained in the above
12 Stipulation for Surrender of License and approve its form.

13 DATED: 6/20/2000.

14 
15 W. SCOTT LIEBERT, ESQ.
16 Attorney for Respondent

17
18 ENDORSEMENT

19 I concur in the stipulation.

20 DATED: July 10, 2000.

21
22
23 BILL LOCKYER, Attorney General
of the State of California

24
25 
26 Gail M. Heppell
Supervising Deputy Attorney General

27 Attorneys for Complainant

EXHIBIT A

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 3, 2000
BY Clement Augusti ANALYST

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) Case No. 16-1999-102311
Against:)
)
GREGG CHARLES CHECANI, M.D.,)
)
9 Clearview Drive) ACCUSATION
Natick, MA 01760)
)
Physician and Surgeon's)
Certificate No. A 49952)
)
Respondent.)

The Complainant alleges:

PARTIES

1. Complainant, Ronald Joseph, is the Executive
Director of the Medical Board of California (hereinafter the
"Board") and brings this accusation solely in his official
capacity.

2. On or about September 24, 1991, Physician and
Surgeon's Certificate No. A 49952 was issued by the Board to
Gregg Charles Checani, M.D. (hereinafter "respondent"). Said

1 certificate is delinquent with an expiration date of April 30,
2 1995.

3 JURISDICTION

4 3. This accusation is brought before the Division of
5 Medical Quality of the Medical Board of California, Department of
6 Consumer Affairs (hereinafter the "Division"), under the
7 authority of the following sections of the California Business
8 and Professions Code (hereinafter "Code") and/or other relevant
9 statutory enactment:

10 A. Section 2227 of the Code provides in part that the
11 Board may revoke, suspend for a period of not to exceed one
12 year, or place on probation, the license of any licensee who
13 has been found guilty under the Medical Practice Act, and
14 may recover the costs of probation monitoring if probation
15 is imposed.

16 B. Section 125.3 of the Code provides, in part, that
17 the Board may request the administrative law judge to direct
18 any licentiate found to have committed a violation or
19 violations of the licensing act, to pay the Board a sum not
20 to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 C. Section 118(b) of the Code provides, in part, that
23 the expiration of a license shall not deprive the Board of
24 jurisdiction to proceed with a disciplinary action during
25 the time within which the license may be renewed, restored,
26 or reinstated.

27 D. Section 2305 of the Code provides, in part, that

1 the revocation, suspension, or other discipline, restriction
2 imposed by another state upon a license or certificate to
3 practice medicine issued by that state, that would have been
4 grounds for discipline in California of a licensee under
5 this chapter, shall constitute grounds for disciplinary
6 action for unprofessional conduct against the licensee in
7 this state.

8 E. Section 2239(a) of the Code provides, in part,
9 that the use or prescribing for or administering to himself
10 of any controlled substance constitutes unprofessional
11 conduct.

12 F. Section 2238 of the Code provides in part that a
13 violation of any statute or regulation of this state
14 regulating
15 dangerous drugs or controlled substances constitutes
16 unprofessional conduct.

17 G. Section 11173 of the Health and Safety Code
18 provides in pertinent part that (a) no person shall obtain
19 controlled substances (1) by fraud, deceit,
20 misrepresentation, or subterfuge; or (2) by concealment of
21 a material fact.

22 H. Section 141 of the Code provides:

23 "(a) For any licensee holding a license issued by a
24 board under the jurisdiction of the department, a
25 disciplinary action taken by another state, by any agency of
26 the federal government, or by another country for any act
27 substantially related to the practice regulated by the

1 California license, may be a ground for disciplinary action
2 by the respective state licensing board. A certified copy
3 of the record of the disciplinary action taken against the
4 licensee by another state, an agency of the federal
5 government, or another country shall be conclusive evidence
6 of the events related therein.

7 I. Section 14124.12(a) of the Welfare & Institutions
8 Code provides in pertinent part that upon written notice of
9 the Medical Board of California a physician and surgeon's
10 medical license has been placed on probation as a result of
11 a disciplinary action, no Medi-Cal claim for the type of
12 surgical service or invasive procedure giving rise to the
13 probationary order and performed on or after the effective
14 date of said probationary order or during the period of
15 probation shall be reimbursed, except upon a prior
16 determination that compelling circumstances warrant the
17 continuance of reimbursement during the probationary period
18 for procedures other than those giving rise to the
19 probationary order.

20 4. Respondent is subject to discipline within the
21 meaning of section 141 and guilty of unprofessional conduct
22 within the meaning of sections 2305, 2239(a), 2238 in conjunction
23 with Health and Safety Code section 11173 as more particularly
24 set forth hereinbelow.

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Discipline, Restriction, or Limitation Imposed By Another State)

27 5. Respondent Gregg Charles Checani, M.D., is subject

1 to disciplinary action under section 141 of the Business and
2 Professions Code in that on or about August 25, 1999, the
3 Commonwealth of Massachusetts, Board of Registration in Medicine,
4 issued a Consent Order in case number 99-19-XX reprimanding
5 respondent's license to practice medicine and surgery in
6 Massachusetts. Additionally, respondent's license was
7 indefinitely suspended. The suspension was stayed contingent
8 upon respondent's execution of a probation agreement. The
9 Consent Order includes Findings of Fact, inter alia, which
10 indicate that respondent is an anesthesiologist who has a history
11 of alcohol dependence and depression dating from 1997. On
12 November 14, 1998, respondent took a vial of Propofol, a Schedule
13 VI short-acting hypnotic drug, home with him from the hospital
14 and injected himself with the drug.

15 Attached as Exhibit A is a true and correct copy of the
16 certified Consent Order of the Commonwealth of Massachusetts,
17 Board of Registration in Medicine.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct, Violation of Drug Statutes)

20 6. Complainant reallages paragraph 5, above, and
21 incorporates it herein by reference as if fully set forth at this
22 point.

23 7. Respondent's conduct as set forth in paragraph 5,
24 above, in obtaining the controlled substance Propofol by deceit
25 and by administering it to himself constitutes unprofessional
26 conduct within the meaning of Code sections 2305, 2239(a), and
27 2238 in conjunction with Health and Safety Code section 11173.

1 PRAYER

2 WHEREFORE, the complainant requests that a hearing be
3 held on the matters herein alleged, and that following the
4 hearing, the Division issue a decision:

5 1. Revoking or suspending Physician and Surgeon's
6 Certificate Number A 49952, heretofore issued to respondent Gregg
7 Charles Checani, M.D.;

8 2. Revoking, suspending or denying approval of the
9 respondent's authority to supervise physician assistants,
10 pursuant to Code section 3527;

11 3. Ordering respondent to pay the Division the actual
12 and reasonable costs of the investigation and enforcement of this
13 case and to pay the costs of probation monitoring upon order of
14 the Division; and

15 4. Taking such other and further action as the
16 Division deems necessary and proper.

17 DATED: March 3, 2000.

18
19 

20 RONALD JOSEPH
21 Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California

25
26 Complainant
27

EXHIBIT A

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

BOARD OF REGISTRATION
IN MEDICINE

ADJUDICATORY CASE NO.
99-19-XX

In the Matter of)
Gregg C. Checani, M.D.,)

CONSENT ORDER

Gregg C. Checani, M.D. (the "Respondent") and the Complaint Counsel agree that the Board of Registration in Medicine (the "Board") may issue this Consent Order, in lieu of convening an adjudicatory proceeding, with all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact described below and agrees the Board may make conclusions of law and impose a sanction as set forth below.

FINDINGS OF FACT

1. Gregg C. Checani, M.D. was born on [REDACTED]. He is a 1990 graduate of Duke University School of Medicine. He was first licensed to practice medicine in Massachusetts in 1993 under registration number 77814. That license is current and active. He is also licensed to practice medicine in Rhode Island and

California. His specialty is anesthesiology and he is certified by the American Board of Anesthesiology. He is currently employed at the University of Massachusetts Medical Center ("UMMC") as a member of the anesthesiology department. Since approximately early December 1998, he has been performing only pre-operative anesthesia assessments and has not worked in the operating room.

2. On or about November 14, 1998, the Respondent, who had finished working the 7:00 a.m. to 7:00 p.m. shift in the operating room at UMMC, signed out of the hospital. He was third on-call for the 7:00 p.m. to 7:00 a.m. shift for November 14-15, 1998. When the Respondent left the hospital, he took with him a vial of Propofol, a Schedule VI short acting hypnotic drug used in anesthesia induction. The vial of Propofol had been left on top of the PIXIS machine for disposal, as a "waste" drug no longer intended for patient use.

3. The Respondent, who has a history of alcohol dependency and depression dating from 1997, injected himself with the Propofol sometime during the evening of November 14, 1998, while in his home. The Respondent's brother believed that the Respondent was ill and took him to a hospital emergency room where it was determined that the Respondent was intoxicated. The Respondent was released after a few hours in a non-intoxicated state.¹ The Respondent went home and was second on call for the 7:00 a.m. to 7:00 p.m. shift on November 15, 1998.

¹ Propofol is a very short acting drug and is metabolized very quickly.

4. The Respondent reported to UMMC for the 7:00 p.m. to 7:00 a.m. shift in the operating room on November 15-16, 1998. There is no indication that the Respondent was intoxicated at the time he reported for work on November 15. After the Respondent finished his shift, he reported his relapse to an associate director of the Physician Health Services ("PHS"), a physician health monitoring program affiliated with the Massachusetts Medical Society. He also reported his relapse to his department Chairman, Charles Vacanti, M.D. The Respondent, through his attorney, reported his relapse to the Board on or about November 19, 1998.
5. The Respondent attended outpatient drug and alcohol rehabilitation in late November 1998. The Respondent signed a new monitoring contract with PHS on December 9, 1998 and has remained in continuous compliance with this contract. The Respondent sees a therapist on a regular basis for treatment of his chemical dependency and depression.
6. The Respondent has been working at UMMC doing pre-anesthesia patient assessments and has not worked in the operating room since November 16, 1998. The Respondent currently has no access to controlled substances at UMMC.

CONCLUSIONS OF LAW

- A. By diverting Propofol designated as "waste" and administering it to himself, the Respondent violated G.L. c. 112, §5(c) and 243 CMR 1.03(5)(a)3.

- B. By diverting Propofol designated as “waste” and administering it to himself, the Respondent violated G.L. c. 112, §5(d) and 243 CMR 1.03(5)(a)4.
- C. By diverting narcotics Propofol as “waste” and administering it to himself, the Respondent has violated 243 CMR 1.03(5)(a)18.

SANCTION

The Respondent is hereby reprimanded. This sanction is imposed for Conclusion of Law C.

Additionally, The Respondent’s license to practice medicine is indefinitely suspended. Said suspension shall be immediately stayed contingent upon his entry into the accompanying Probation Agreement, which is attached to and incorporated into this Consent Order. Any violation of the terms of the Probation Agreement shall constitute a violation of this Consent Order. The Respondent shall be subject to the terms of this Consent Order and accompanying Probation Agreement until at least December 9, 2003. This sanction is imposed for Conclusions of Law A, B, and C individually, and not for a combination of them.

In imposing this sanction, the Board considered the following mitigating factors: the fact that the Respondent has maintained continuous sobriety from at least December 9, 1998 and has been in full cooperation with both PHS monitoring and with the advice of his Department Chair at UMMC.

EXECUTION OF THIS CONSENT ORDER

The parties agree that the approval of this Consent Order is left to the discretion of the Board. The signature of the Respondent, his attorney, and Complaint Counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on the Consent Order. As to any matter this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone else acting on his behalf has received any promises or representations regarding the same.

The Respondent waives any right of appeal he may have resulting from the Board's acceptance of this Consent Order.

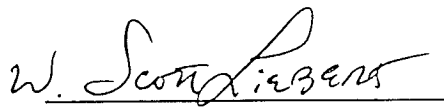
The Respondent shall provide a complete copy of this Consent Order, with all exhibits and attachments, if any, within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in-state or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any state agency, in- state or out-of-state, with which he has a provider contract; any in-state or out-of-state medical employer, whether or not he practices medicine there; and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such

designated entities with which he becomes associated for the duration of this Consent Order. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above or any other affected entity, of any action it has taken.


Respondent

July 26, 1999
Date



Respondent's Counsel

July 23, 1999
Date


Complaint Counsel

7/28/99
Date

Accepted by the Board of Registration in Medicine on this 25 day of August, 1999.


Walter Prince, J.D.
Acting Chair

Notified by
Certified Mail &
Regular Mail
8/26/99 (zan)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

BOARD OF REGISTRATION
IN MEDICINE

ADJUDICATORY CASE NO.
99-19-XX

In the Matter of)
Gregg C. Checani, M.D.)

PROBATION AGREEMENT

I. COMPLIANCE WITH AGREEMENT

The Respondent's license to practice medicine is hereby suspended for an indefinite period, which suspension shall be stayed upon the Respondent's compliance with all the conditions of probation set forth below in section IV.

II. PARTIES

The parties to this Probation Agreement are the Board of Registration in Medicine (the "Board") and Gregg C. Checani, M.D. (the "Respondent").

III. JURISDICTION

The parties agree that the Board has the authority to enter into this Probation Agreement, and that the Board may enforce the terms of this Agreement in accordance with applicable laws and regulations and the provisions of this Agreement.

IV. CONDITIONS OF PROBATION

During the probationary period, which shall be effective on the date the Board accepts this Agreement, the Respondent shall comply with each of the following requirements:

- A. The Respondent agrees to undergo monitoring by the Board until at least December 9, 2003 and for such further period thereafter as the Board shall for reasonable cause order. At the Board's discretion, any periods during which the Respondent is not practicing medicine, during the probationary period, may extend the probationary period.
- B. The Respondent shall refrain from all consumption of alcohol, and use of all controlled substances, unless controlled substances are specifically prescribed, by a treating physician who has been informed of the Respondent's history of

chemical dependency, for a legitimate medical purpose and in the usual course of the treating physician's medical practice.

C. The Respondent shall not self-prescribe controlled substances in Schedules II, III, and IV (243 CMR 2.07(19)), and shall adhere to all other laws and regulations pertaining to the dispensing, administration, and distribution of controlled substances.

D. The Respondent has entered into a contract, dated December 9, 1998, and in a form acceptable to the Board, with Physician Health Services ("PHS"), a physician health monitoring program affiliated with the Massachusetts Medical Society. The Respondent agrees to abide fully by all terms of this contract. This contract includes a provision that PHS will promptly inform the Board of any lapse or violation of its terms by the Respondent, and the contract provides for any necessary waivers of privilege or confidentiality by the Respondent. PHS shall submit quarterly reports to the Board, which detail the Respondent's compliance with this contract.

E. The Respondent shall undergo random bodily fluid screenings as required by PHS, or as may be required by the Board, which requirement may be reasonably modified from time to time consistent with scientific or practical advances in the field of alcohol or drug detection. The Respondent shall submit random urine samples at least twice weekly on average until the time he resumes full time activity in the operating room. Testing may then be decreased to once

weekly only upon prior approval of the Board. Blood and breath testing shall occur as requested by PHS or the Board. The Respondent shall also be specifically tested for presence of Fentanyl at least once monthly.¹ An officer of the PHS shall file reports of the screening evaluations completed during the previous three months to the Board within thirty days as part of their quarterly report. Said reports shall specify the dates on which samples were taken and shall specify the results of the analysis of such samples and shall be signed by the person in charge. In addition, the Respondent shall obtain the written agreement of PHS to notify the Board immediately by telephone and in writing;

1.a) in the event that Respondent's sample is found to contain any evidence of alcohol or any controlled substance in violation of this Probation Agreement; or

b) in the event that PHS has other reliable evidence that the Respondent has used alcohol or any controlled substance in violation of this Probation Agreement;

2. in the event that the Respondent misses any random bodily fluid test, excluding an administrative or laboratory mistake beyond the Respondent's control;

¹ The Respondent shall also be tested once monthly for the specific presence of Propofol, if such a test is available.

3. in the event that Respondent refuses to cooperate with the PHS in monitoring bodily fluids in any manner;
4. in the event that Respondent withdraws any waiver filed in connection with this Probation Agreement; or
5. in the event that PHS has a reasonable basis to believe that the Respondent, for any reason, cannot render professional services without undue risk to the public.

The Respondent agrees to waive any privileges he may have concerning such reports and disclosures to the Board by the PHS.

F. The Respondent shall at all times during the length of the probationary period be reasonably available to provide an immediate bodily fluid screen at the request of the Board.

G. The Respondent shall immediately notify the Board directly in writing any time that any treating physician writes a prescription for the Respondent for a controlled substance in Schedules II - IV, inclusive.

H. The Respondent shall be under the care of licensed or certified health care professional, experienced in the treatment of chemical dependency, who shall submit written reports, including reports of all missed sessions, to the Board or its designee as often as the Board deems necessary but in any event at least once every three months. Copies of these attendance reports shall be part of the quarterly report that PHS submits to the Board. The health care professional shall

immediately notify the Board by telephone whenever, in his professional judgment, the Respondent poses a potential danger to the health, safety and welfare of the Respondent's patients. In addition, the health care professional shall immediately notify the Board by telephone and in writing in the event that the Respondent terminates treatment, or is non-compliant with the treatment plan. In the event that a health care professional notifies the Board that the Respondent poses a danger to the health, safety or welfare of the Respondent's patients, or terminates treatment, the Board may obtain any and all information, reports and records for a period not to exceed ninety (90) days prior to the date of said notification from the health care provider concerning the Respondent. Respondent hereby waives any privileges concerning such information, reports, records and disclosures to the Board. The health care professional shall confirm, in writing, to the Board, his agreement and undertaking with respect to the obligations set forth in this paragraph, and shall notify the Board if Respondent withdraws any waiver filed in connection with this Probation Agreement.

The Respondent's current therapist is Scott Cutler, M.D. The above reporting obligations shall apply to Dr. Cutler until the Board, upon the Respondent's petition, orders otherwise, or approves a successor to Dr. Cutler.

I. The Respondent shall participate at least once weekly in a group-counseling program for chemically dependent persons, approved in advance by the Board.

The Respondent shall keep a diary of his attendance at such meetings. The Respondent shall submit this diary to PHS for periodic verification and the PHS shall submit copies of the diary in its quarterly report to the Board.

J. The Respondent shall file, within thirty (30) days of the execution of this Probation Agreement, written releases and authorizations sufficiently broad in scope so as to allow the Board to obtain any and all medical and laboratory reports, treating physicians' reports and records concerning the Respondent's treatment during the probationary period. The PHS may retain as confidential the identity of informants who have disclosed suspected or known substance misuse to these programs under the promise of confidentiality.

K. All agreements whereby third parties are to provide written reports, releases, records or any other information to the Board under this Probation Agreement shall be submitted to the Board for approval within thirty (30) days after the Probation Agreement is approved by the Board. All such releases and agreements must, in addition to waiving any relevant state law privileges or immunities, provide the Board with access to all material covered by 42 CFR, Part 2, and the Criminal Offender Records Information (CORI) Act, so-called, G.L. c. 6, §§167-178; all such releases and agreements must provide that the released party shall notify the Board if any waiver is withdrawn. In the event that any such releases or waivers are not sufficient to obtain access to any information which the Board in its discretion considers relevant, the Respondent agrees to obtain

personally such information and furnish it to the Board to the extent permitted by law.

L. In the event that the Respondent seeks licensure to practice medicine in another state, the Respondent shall notify the Board of such fact and shall disclose to the licensing authority in such state his status with this Board. Respondent shall submit to the Board copies of all correspondence and application materials submitted to another state's licensing authority.

M. In the event Respondent should leave Massachusetts to reside or practice out of the state, Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside Massachusetts will not apply to the reduction of any period of Respondent's probationary licensure, unless Respondent enters into a monitoring agreement, approved by the Board, in the new location.

N. Respondent shall appear before the Board or a committee of its members at such time as the Board may request, upon reasonable advance notice, commensurate with the gravity or urgency of the need for such meeting as determined by the Board or such committee.

O. The Respondent shall notify his supervisor and employer at any hospital, clinic, or institution at which he is employed or has privileges in writing that he has been the subject of disciplinary proceedings before the Board and that he is

currently on probation. The Respondent shall furnish copies of such notices to the Board.

The Respondent shall provide a complete copy of this Probation Agreement and accompanying Consent Order, within ten (10) days, by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in-state or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any state agency, in-state or out-of-state, with which he has a provider contract; any in-state or out-of-state medical employer, whether or not he practices medicine there; and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this Probation Agreement and accompanying Consent Order. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

The Respondent has selected Charles Vacanti, M.D. as his monitor. Until the Board, upon petition of Respondent, orders otherwise, Respondent shall continue to be monitored by Dr. Vacanti. Dr. Vacanti, or his Board approved

successor, shall submit a quarterly evaluation of the Respondent to the PHS. The evaluation shall be part of the quarterly report that the PHS submits to the Board.

P. The Respondent may engage in the practice of medicine only as a staff member of the Anesthesia Department of the University of Massachusetts Medical Center ("UMMC"). He is currently practicing medicine by performing pre-anesthesia patient examinations and evaluations. He is not presently working in the operating room. The Respondent may gradually resume clinical responsibilities in the operating room, only upon the recommendation of his Department Chair and with prior Board approval. The Respondent may, at the time of approval of this Probation Agreement, resume clinical responsibilities in the operating room for a maximum of two days per week. Any and all increases in the amount of time spent by the Respondent working in the operating must be approved in advance by the Board and be recommended by the Respondent's Department Chair.

Q. The Respondent, and not the Board, shall be responsible for the payment of any fee or charge occasioned by the Respondent's compliance with this Probation Agreement.

R. The Respondent may request that the Board modify any of the conditions set forth above. The Board may, in its discretion, grant such modification. Except for requests for modifications related to the identity of the health care professional referenced in paragraph H, the clinical monitor referenced in paragraph O, and the

Respondent's employment, Respondent may make such a request not more than once in any one year period, nor any sooner than one year from the date of this Probation Agreement.

V. TERMINATION OF PROBATION

- A. If the Respondent complies with his obligations as set forth above, the Board, at the expiration of the probationary period, shall, upon petition by the Respondent, terminate the Respondent's probationary period and probation with the Board and vacate the Respondent's license suspension, unless Respondent's probation is extended in accordance with paragraph IV(A).
- B. If the Respondent fails to comply with his obligations as set forth above, the stay of suspension of the Respondent's license to practice medicine may be

immediately vacated and the Respondent's license may be suspended, as agreed in
Section I.

July 26, 1999
Date

Gregg C. Chuman
Respondent

Aug 23, 1999
Date

W. Scott Liebert
Attorney for the Respondent

Accepted this 25 day of August, 1999, by the Board of
Registration in Medicine



Walter Prince, J.D.
Acting Chair

Notified by
Certified Mail +
Regular Mail
8/26/99 (2M)